In the High Court of Judicature at Madras

Dated : 27.08.2019

Coram :

The Honourable Mr.Justice T.S.SIVAGNANAM
and
The Honourable Mrs.Justice V.BHAVANI SUBBAROYAN

Tax Case Appeal No.147 of 2015

Commissioner of Income Tax,
Chennai. ...Appellant

Vs

Sri Shaik Mohamed Mohamed Rafeeq ...Respondent

APPEAL under Section 260A of the Income Tax Act, 1961 against the order dated 19.08.2014 made in ITA.No.20/MDS/2013 on the file of the Income Tax Appellate Tribunal, Chennai 'B' Bench for the assessment year 2009-10 against the order dated 28.09.2012 made in I.T.A. 237/2011-2012 on the file of the Commissioner of Income Tax (Appeals)IX, Chennai against the order dated 29.12.2011 made in P.A. No. ALYPM1001C on the file of the Assistant Commissioner of Income Tax Business Circle VIII, Chennai for the Assessment year 2009-2010.

For Appellant : Mr.M.Swaminathan, SSC
and Mr.S.Rajesh, SC

For Respondent: Not ready notice

JUDGMENT
(Judgment was delivered by T.S.Sivagnanam,J.)

We have heard Mr.M.Swaminathan, learned Senior Standing Counsel, and Mr.S.Rajesh, learned Standing Counsel appearing for the appellant/revenue.

2.This appeal, filed by the Revenue under Section 260A of the Income Tax Act, 1961 is directed against the order dated 19.08.2014 made in ITA.No.20/MDS/2013 on the file of the Income Tax Appellate Tribunal, Chennai 'B' Bench for the assessment year 2009-10.

3.The appeal was admitted on 07.04.2015 on the following substantial question of law :

"Whether on the facts and in the circumstances of the case, the Tribunal was right in holding that Section 40(a)(ia) can be invoked only to the amounts of expenditure which are payable as on last day of the financial year and not the expenditure incurred during the financial year?"

4.The learned Senior Standing Counsel for the appellant submits that the above appeal is not pursued by the Revenue on account of the low tax effect in terms of Circular No.17/2019 dated 08.8.2019 issued by the Central Board of Direct Taxes. By the said Circular, the monetary limit for filing or pursuing an appeal before the High Court has been increased to Rs.1 Crore. It is further submitted that the tax effect in this case is less than the threshold limit.

5.In the light of the said submissions, the above tax case appeal is dismissed on account of the low tax effect. The substantial question of law framed is left open. In the event the tax effect is above the threshold limit fixed in the said circular, liberty is granted to the Revenue to make a mention to this Court to restore the appeal to be heard and decided on merits. No costs.

s/d-
Assistant Registrar(CS VIII)

True Copy

Sub-Assistant Registrar

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To
1.The Income Tax Appellate Tribunal, Chennai 'B' Bench.
2.The Commissioner of Income Tax (Appeals) IX, Chennai
3.The Assistant Commissioner of Income Tax
Business Circle VIII, Chennai

+1 CC to Mr.M.Swaminathan, Advocate sr 73563.

TCA.No.147 of 2015

RSV(CO)
SP(06/11/2019)